

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**June 13, 2002**

**IN RE:**

**GENERIC DOCKET TO CONSIDER  
TECHNOLOGY ADVANCES**

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**DOCKET NO.  
02-00434**

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**ORDER**

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This docket came before the Pre-Hearing Officer for consideration of comments filed by:

1) United Telephone-Southeast, Inc. and Sprint Communications Company, L.P. (collectively "Sprint/United"); 2) BellSouth Telecommunications, Inc. ("BellSouth"); and 3) MCI WorldCom Communications, Inc.; Cinergy Communications Company; Birch Telecom, Inc.; DIECA Communications, Inc. d/b/a Covad Communications Company; AT&T Communications of the South Central States; TCG MidSouth, Inc.; ITC^DeltaCom Communications, Inc.; MCImetro Access Transmission Services, LLC; Brooks Fiber Communications of Tennessee, Inc.; Network Telephone Corporation; and NewSouth Communications Corp. (collectively "Consolidated CLECs").<sup>1</sup>

On April 26, 2002, the Pre-Hearing Officer issued a *Notice of Filing* directing interested persons and entities who wished to file comments on the scope of this docket to do so by May 24, 2002. The notice further instructed:

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<sup>1</sup> TCG MidSouth, Inc.; ITC^DeltaCom Communications, Inc.; MCImetro Access Transmission Services, LLC; Brooks Fiber Communications of Tennessee, Inc.; Network Telephone Corporation; and NewSouth Communications Corp. have not filed petitions to intervene. The remaining competing local exchange carriers filed petitions to intervene on May 30, 2002.

Such comments should contain: (1) a list of those Unbundled Network Element ("UNE") rates from Docket No. 97-01262, *In re: Petition of BellSouth Telecommunications Inc. to Convene a Contested Case to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements*, requiring review as a result of technology advances and (2) a list of UNEs for which an initial rate is needed as a result of technology advances. Each item listed shall include a detailed description of the technology advance impacting that item.

As required by the notice, Sprint/United, BellSouth, and the Consolidated CLECs filed comments on May 24, 2002. Sprint/United requested that the docket include a determination of "how competitive LECs might offer advanced services where fiber optic cable is present in the local loop," specifically, regarding the "functionality provided by dual purpose line cards" and whether such functionality should be considered a UNE. In light of these comments Sprint requested that the Authority take judicial notice of those portions of the record in Docket No. 00-00544 relating to dual purpose line cards.<sup>2</sup>

BellSouth simply stated that no UNE rates from Docket No. 97-01262 "require review as a result of technology advances." BellSouth also asserted that there are "no UNEs for which an initial rate is needed as a result of technology advances." Lastly, BellSouth reserved the right to file reply comments.<sup>3</sup>

The Consolidated CLECs' comments are in every aspect in opposition to those of BellSouth. The Consolidated CLECs asserted that, because of direct and indirect technology advances, this docket should include recurring and nonrecurring rates for all "current UNEs," of which they attached a list, as well as all new UNEs and UNE combinations.<sup>4</sup> The Consolidated CLECs rely on three "technology-driven changes" to support their comments. First, they argue that technology-driven changes in the cost of network facilities have resulted in a "spectacular

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<sup>2</sup> *Comments of United Telephone-Southeast, Inc. and Sprint Communications Company L.P.* (May 24, 2002).

<sup>3</sup> *Comments of BellSouth Telecommunications, Inc.* (May 24, 2002).

<sup>4</sup> *Consolidated CLEC Comments*, pp. 2-3 (May 24, 2002).

reduction in the per-unit, forward looking cost of a loop.”<sup>5</sup> They specifically noted that the deployment of fiber optic facilities and ATM switching has led to a decline in transport costs.<sup>6</sup> Also, they contended that the increased deployment of Digital Loop Carrier (“DLC”) facilities allows BellSouth to better utilize poles, conduit, and trenching and improves economies of scale. In addition, the Consolidated CLECs asserted that DLC equipment capabilities have increased while equipment costs have declined.<sup>7</sup> Second, the Consolidated CLECs referenced technology-driven changes to the cost of switching claiming that “ILECs are augmenting their circuit switched networks with packet switched networks in order to reduce switching costs and further the engineering goal of provisioning broadband and narrowband services over common facilities.”<sup>8</sup> Third, the Consolidated CLECs relied on technology-driven changes in network modeling. They asserted that the development by BellSouth of the “BellSouth Telecommunications Loop Model” is a technology advance in and of itself that when “used with appropriate, forward-looking inputs, [] creates the potential to more accurately determine on a geographically de-averaged level, the forward-looking cost of loops.”<sup>9</sup>

After considering these comments, the Pre-Hearing Officer finds that additional argument is needed to aid the Authority in developing a comprehensive list of the UNE rates to be fixed in this docket. Specifically, the Pre-Hearing Officer notes that the Consolidated CLECs’ arguments focus on advances impacting loops and switching, yet their list includes elements other than loops and switching. Therefore, it would be beneficial if the Consolidated CLECs were to supplement their comments by providing a detailed description of the technology advance

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<sup>5</sup> *Id.* at 4.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.*

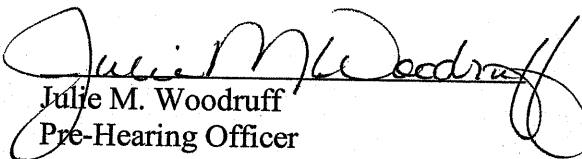
<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.* at 5-6.

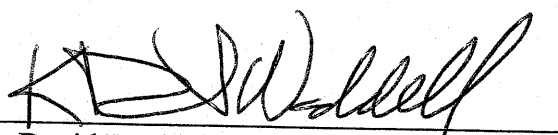
impacting each item listed in the Attachment to the *Consolidated CLEC Comments* and describe in detail how that advance has reduced the cost of the item. In addition, responsive arguments would also aid the Authority in evaluating technology advances.

**IT IS THEREFORE ORDERED THAT:**

- 1) The Consolidated CLECs shall supplement the *Consolidated CLEC Comments* as explained herein within thirty (30) days of the filing of this order.
- 2) Responsive comments shall be filed within forty-five (45) days of the filing of the filing of this order.

  
Julie M. Woodruff  
Pre-Hearing Officer

ATTEST:

  
K. David Waddell, Executive Secretary